

of much important scientific research in the Bay Area. We have noted that the first x-ray films taken in the West were of a boy with an extremity injury. The first physicians to clearly define how men walk were Bay Area orthopedists, as well.

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Important Medical-Legal Aspects of Immunization

There have been some recent medical-legal developments that I think may cause you grave concern . . . and I would urge you to spend a little more time talking to parents on a child's first visit for immunizing agents. In 1963, in the case of Davis vs. Wyeth, wherein an adult who had participated in a mass Sabin vaccine program in Idaho contracted poliomyelitis, and in which case it was shown that his paralytic disease was vaccine-associated: The first court of jurisdiction found for Wyeth, the defendant, saying that it was well-known that Sabin oral polio vaccine did carry a small risk (1 case in 3 million, or 1 in 5 million, depending on the type of vaccine strain) and that, therefore, this was to be expected . . . The 9th Federal Circuit Court, however, reversed the decision and said that there was an "implied warranty" any time a manufacturer put a product on the market. And even though that manufacturer had fulfilled all the standards of safety testing as required by the government at that time, the manufacturer himself (or his representative) must warn the patients who are receiving these products of the risk.

Seven years later, in 1970, there was an outbreak of natural poliomyelitis in South Texas due to polio type 1. Because of this there was a mass program in the community, and in a public health clinic an 8-month-old child . . . received a feeding of vaccine strain and paralytic poliomyelitis later developed. It was shown conclusively by expert witnesses who studied the virus recovered from the child that the child suffered from natural poliomyelitis and not from the vaccine strain. Yet, the courts found against the manufacturer, Wyeth. They disregarded the expert testimony that the vaccine had nothing to do with the child's paralytic disease, which was naturally acquired, and again brought up this business of the implied warranty.

Now . . . this may sound like it's a long way from your individual practice . . . but to protect ourselves and to be defensive I would suggest to you very strongly that you give the parents a handout on immunizing agents that you're going to use rather routinely . . . You better make sure that your chart reflects that you have talked to the parents about the immunizing agent; and you should also record the child's temperature. And my advice to you is that although there is no contraindication, in my opinion, to use the trivalent oral polio vaccine in a febrile child, I wouldn't use even that in a febrile child now because of some of the medical-legal implications I've seen.

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